

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS  
EAST ST. LOUIS DIVISION**

**DEFENDANTS' OBJECTIONS AND RESPONSES TO  
PLAINTIFF'S SECOND AMENDED RULE 26(a)(3) PRETRIAL DISCLOSURES**

Take-Two Interactive Software, Inc., 2K Games, Inc., 2K Sports, Inc., Visual Concepts Entertainment, and World Wrestling Entertainment, Inc. (collectively, “Defendants”), by counsel, and in accordance with Federal Rule of Civil Procedure 26(a)(3) submit the following objections and responses to Plaintiff’s Second Amended Pretrial Disclosures. Dkt. 264 (“Pl.’s 26(a)(3) Discl.”).

Defendants object to Plaintiff’s Witness No. 5—namely “[a]ny witness, employee, officer or representative of any Defendant who is present in the courtroom at any point during trial,” Pl.’s 26(a)(3) Discl., at 2—as Rule 26(a)(3)(i) required Plaintiff to identify her witnesses by name. Accordingly, the Court should strike Plaintiff’s Witness No. 7. *See* Fed. R. Civ. P. 37(c)(1); *see also* *Watts v. 84 Lumber Co.*, No. 14 Civ. 327, 2016 WL 7732935, at \*1 (S.D. Ill. Feb. 12, 2016) (striking un-named witnesses from party’s Rule 26(a)(3) disclosures). Plaintiff’s

Witness No. 5 also violates the parties' stipulation that no party "will offer lay or expert witnesses not previously disclosed pursuant to the applicable rules." (Dkt. 211 ¶ 11.) In addition, Plaintiff did not list such witnesses in any Final Pretrial Order submission exchanged between the parties or submitted to the Court and, thus, has waived such unknown witnesses.

*See Mankey v. Bennett*, 38 F.3d 353, 358–59 (7th Cir. 1994) (upholding exclusion of witness not listed in pretrial order).

## **II. TESTIMONY THROUGH DEPOSITION DESIGNATION**

Pursuant to the Court's January 25, 2022, Order, Dkt. 258, at 2, on September 7, 2022, the parties submitted to the Court a joint document including their respective deposition designations, counter-designations, and objections. Pursuant to Federal Rule of Civil Procedure 26(a)(3)(B), Defendants also indicate below those counter-designations and objections in response to Plaintiff's deposition designations filed as part of Plaintiff's Second Amended Pretrial Disclosures. *See* Pl.'s 26(a)(3) Discl., Ex. A. Defendants' objections to exhibits as indicated in Section III, below, also apply to any corresponding deposition exhibits designated by Plaintiff, as well as any designated testimony referring to or relating to such exhibits. Defendants reserve the right to play any of their counter-designations in response to any designated testimony played by Plaintiff at trial.

### **A. EDWARD KIANG**

| <b>Defendants' Objections to Plaintiff's Designations for Mr. Kiang</b> |                                                                             |
|-------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| <b>Page/Line</b>                                                        | <b>Objections</b>                                                           |
| 30:18–30:24                                                             | 602; lack of foundation; calls for legal conclusion.                        |
| 31:2–31:9                                                               |                                                                             |
| 35:7–35:22                                                              | Pending MIL; 401; 402; 403.                                                 |
| 40:1–40:3                                                               | 602; lack of foundation; calls for legal conclusion; calls for speculation. |
| 40:8–40:9                                                               |                                                                             |
| 40:19–40:21                                                             |                                                                             |
| 40:24–41:14                                                             |                                                                             |
| 41:18–41:21                                                             |                                                                             |

| <b>Defendants' Objections to Plaintiff's Designations for Mr. Kiang</b> |                                                                           |
|-------------------------------------------------------------------------|---------------------------------------------------------------------------|
| <b>Page/Line</b>                                                        | <b>Objections</b>                                                         |
| 43:7–43:12                                                              | Lack of foundation.                                                       |
| 43:15–43:17                                                             |                                                                           |
| 43:18–43:20                                                             | Lack of foundation; speculation; improper/incomplete hypothetical.        |
| 43:24–44:1                                                              |                                                                           |
| 44:2–44:16                                                              | Foundation; speculation; improper/incomplete hypothetical.                |
| 52:25–53:5                                                              | Calls for speculation; vague; incomplete/improper hypothetical.           |
| 53:9–53:12                                                              |                                                                           |
| 56:23–57:22                                                             | 401; 402; 403; compound.                                                  |
| 57:23–57:24                                                             | 401; 402; 403; calls for speculation; foundation; vague;                  |
| 58:2–58:10                                                              | improper opinion.                                                         |
| 60:21–60:23                                                             | 401; 402; 403; 602; speculation; improper/incomplete hypothetical; scope. |
| 61:4–61:9                                                               |                                                                           |
| 61:13–61:21                                                             |                                                                           |
| 61:23–61:24                                                             |                                                                           |
| 67:4–67:6                                                               | 401; 402; 403; improper/incomplete hypothetical;                          |
| 67:7–67:7                                                               | speculation; calls for a legal conclusion.                                |
| 67:8–67:10                                                              |                                                                           |
| 67:15–67:18                                                             | 401; 402; 403; improper/incomplete hypothetical;                          |
| 68:9–68:11                                                              | speculation.                                                              |
| 68:15–68:17                                                             |                                                                           |
| 68:18–68:18                                                             | Not a question/testimony.                                                 |
| 68:19–68:22                                                             | 401; 402; 403; improper/incomplete hypothetical;                          |
| 68:25–69:2                                                              | speculation.                                                              |
| 69:3–69:10                                                              |                                                                           |
| 69:15–69:18                                                             |                                                                           |
| 69:21–69:22                                                             |                                                                           |
| 70:6–70:23                                                              |                                                                           |
| 71:13–71:22                                                             | 401; 402; 403; improper/incomplete hypothetical;                          |
|                                                                         | speculation; mischaracterizes testimony.                                  |
| 75:21–75:24                                                             | 401; 402; 403; 602; speculation; improper opinion;                        |
| 76:4–76:6                                                               | foundation; scope.                                                        |
| 76:10–76:10                                                             |                                                                           |
| 76:21–76:23                                                             |                                                                           |
| 77:1–77:2                                                               |                                                                           |
| 80:21–81:2                                                              | 401; 402; 403; improper opinion; foundation; scope.                       |
| 81:11–81:16                                                             | 401; 402; 403; foundation; scope.                                         |
| 82:4–82:12                                                              |                                                                           |
| 88:17–89:2                                                              |                                                                           |
| 96:6–97:3                                                               | 401; 402; 403; improper opinion; foundation; incomplete;                  |
|                                                                         | scope.                                                                    |
| 97:10–97:14                                                             | 401; 402; 403; foundation; incomplete; scope; speculation.                |

| <b>Defendants' Objections to Plaintiff's Designations for Mr. Kiang</b> |                   |
|-------------------------------------------------------------------------|-------------------|
| <b>Page/Line</b>                                                        | <b>Objections</b> |
| 97:18–98:15                                                             |                   |
| 115:15–115:23                                                           | 401; 402; 403.    |
| 116:17–117:18                                                           |                   |

Defendants offer the following counter deposition designations for Mr. Kiang:

|             |             |               |
|-------------|-------------|---------------|
| 9:20–9:25   | 28:10–28:13 | 53:18–53:20   |
| 12:13–12:20 | 28:17–28:19 | 58:11–58:15   |
| 13:11–13:14 | 29:19–29:22 | 58:18–58:24   |
| 13:19–13:22 | 46:1–46:8   | 58:25–59:8    |
| 16:22–17:10 | 48:7–48:17  | 71:6–71:12    |
| 17:12–17:18 | 49:7–49:14  | 114:11–114:13 |
| 25:7–25:10  | 49:19–49:22 | 114:21–115:3  |
| 25:16–25:19 | 51:25–52:4  | 118:2–118:19  |
| 27:22–27:23 | 52:7–52:12  |               |
| 28:2–28:3   | 53:13–53:15 |               |

## B. MARK LITTLE

| <b>Defendants' Objections to Plaintiff's Designations for Mr. Little</b> |                                            |
|--------------------------------------------------------------------------|--------------------------------------------|
| <b>Page/Line</b>                                                         | <b>Objections</b>                          |
| 49:6–49:8                                                                | 401; 402; 403; 602; calls for speculation. |
| 49:12–50:11                                                              |                                            |
| 166:17–166:20                                                            | Calls for a legal conclusion.              |

Defendants offer the following counter deposition designations for Mr. Little:

|             |               |               |
|-------------|---------------|---------------|
| 8:9–8:16    | 51:24–52:1    | 108:15–108:19 |
| 11:25–12:13 | 52:4–52:5     | 108:22–109:1  |
| 12:18–12:21 | 62:4–62:10    | 109:3–109:5   |
| 13:2–13:7   | 63:13–64:10   | 109:7–109:10  |
| 17:24–18:16 | 66:4–66:17    | 110:11–110:13 |
| 20:11–21:8  | 70:24–71:6    | 110:15–110:17 |
| 21:18–21:23 | 72:16–73:6    | 119:20–119:21 |
| 22:23–22:24 | 87:20–88:12   | 123:24–124:16 |
| 26:8–26:13  | 88:19–89:8    | 125:22–126:1  |
| 27:2–27:4   | 89:17–89:22   | 126:16–126:22 |
| 27:7–27:8   | 89:23–90:12   | 126:24–127:5  |
| 29:11–29:14 | 90:15–90:16   | 165:4–165:6   |
| 29:17–29:17 | 90:18–90:21   | 165:8–165:19  |
| 35:2–35:12  | 94:3–94:9     | 168:12–168:13 |
| 45:3–45:19  | 94:12–94:16   |               |
| 50:16–50:18 | 102:15–102:17 |               |

**C. CHRIS SNYDER**

| <b>Defendants' Objections to Plaintiff's Designations for Mr. Snyder</b> |                                                       |
|--------------------------------------------------------------------------|-------------------------------------------------------|
| <b>Page/Line</b>                                                         | <b>Objections</b>                                     |
| 17:1–17:5                                                                | 602; lack of foundation.                              |
| 33:17–33:23                                                              | 106; 32(a)(6); 401; 402; 403; pending MIL.            |
| 34:2–34:14                                                               |                                                       |
| 36:7–36:8                                                                | 401; 402; 403; Pending MIL.                           |
| 36:19–36:21                                                              |                                                       |
| 36:23–36:24                                                              | 401; 402; 403; not a question/testimony; pending MIL. |
| 37:3–37:4                                                                | 401; 402; 403; not a question/testimony.              |
| 43:12–43:19                                                              | 401; 402; 403; Pending MIL.                           |
| 44:1–44:8                                                                |                                                       |
| 44:24–45:10                                                              |                                                       |
| 47:10–48:5                                                               |                                                       |
| 60:23 – 60:24                                                            |                                                       |
| 61:6 – 61:7                                                              |                                                       |

Defendants offer the following counter deposition designations for Mr. Snyder:

|             |             |             |
|-------------|-------------|-------------|
| 9:10–10:2   | 33:16–33:16 | 51:23–51:25 |
| 10:14–10:21 | 34:25–35:2  | 52:2–52:5   |
| 11:8–11:21  | 41:2–41:7   | 54:22–55:14 |
| 13:10–13:10 | 48:6–48:8   | 55:21–56:5  |
| 28:4–28:5   | 49:10–49:18 | 56:8–56:9   |
| 28:8–28:8   | 50:9–50:10  | 58:24–59:1  |
| 32:2–32:4   | 50:12–50:13 | 59:4–59:4   |
| 32:17–32:17 | 51:7–51:8   | 60:25–60:25 |
| 33:9–33:11  | 51:10–51:12 |             |

### III. EXHIBITS

Defendants object to Plaintiff's Amended Trial Exhibit List, Pl.'s 26(a)(3) Discl., Ex. B, as indicated below.

| <b>Plaintiff's Exhibit No.</b> | <b>Description</b>                                                                                      | <b>Defendants' Objections</b> |
|--------------------------------|---------------------------------------------------------------------------------------------------------|-------------------------------|
| <b>1</b>                       | Certificate of Registration from the U.S. Copyright Office – Dove [ALEXANDER000060-61]                  |                               |
| <b>2</b>                       | Certificate of Registration from the U.S. Copyright Office – Rose [ALEXANDER000062]                     |                               |
| <b>3</b>                       | Certificate of Registration from the U.S. Copyright Office – Skulls [ALEXANDER000063-64]                |                               |
| <b>4</b>                       | Certificate of Registration from the U.S. Copyright Office – Tribal Addition [ALEXANDER000065-66]       |                               |
| <b>5</b>                       | Certificate of Registration from the U.S. Copyright Office – Tribal Design [ALEXANDER000070-71]         |                               |
| <b>6</b>                       | Copyright registration application for Tribal Addition design [ALEXANDER000001-4, Alexander Depo Exh 3] |                               |
| <b>7</b>                       | Copyright registration application for Dove design [ALEXANDER000009-14, Alexander Depo Exh 16]          |                               |
| <b>8</b>                       | Copyright registration application for Rose design [ALEXANDER000015-19, Alexander Depo Exh 17]          |                               |
| <b>9</b>                       | Copyright registration application for Skulls design [ALEXANDER000020-24, Alexander Depo Exh 18]        |                               |
| <b>10</b>                      | Copyright registration application for Tribal design [ALEXANDER000025-28, Alexander Depo Exh 7]         |                               |
| <b>11</b>                      | Photograph of Plaintiff and Mr. Orton [ALEXANDER000036]                                                 |                               |
| <b>12</b>                      | Photograph of Plaintiff and Mr. Orton [ALEXANDER000036]                                                 |                               |
| <b>13</b>                      | Sketch of Plaintiff's dove tattoo design [ALEXANDER000037, Alexander Depo Exh 12]                       |                               |
| <b>14</b>                      | Sketch of Plaintiff's tribal addition tattoo design [ALEXANDER000038, Alexander Depo Exh 5]             |                               |
| <b>15</b>                      | Sketch of Plaintiff's tribal addition tattoo design [ALEXANDER000039, Alexander Depo Exh 6]             |                               |

| Plaintiff's Exhibit No. | Description                                                                                                                         | Defendants' Objections                                                           |
|-------------------------|-------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------|
| 16                      | Sketch of Plaintiff's tribal addition tattoo design [ALEXANDER000040, Alexander Depo Exh 4]                                         |                                                                                  |
| 17                      | Sketch of Plaintiff's tribal design addition for Mr. Orton's tattoos arm(s) [ALEXANDER000041, Alexander Depo Exh 8]                 |                                                                                  |
| 18                      | Photograph of Mr. Orton with tattoos on arms [ALEXANDER000043, Alexander Depo Exh 11]                                               |                                                                                  |
| 19                      | Photograph of Mr. Orton's arm tattoos [ALEXANDER000044, Alexander Depo Exh 10]                                                      |                                                                                  |
| 20                      | Photograph of Mr. Orton's upper arm tribal design and partial view of back tribal addition [ALEXANDER000045, Alexander Depo Exh 14] |                                                                                  |
| 21                      | Photograph of Mr. Orton's tattoos on arms [ALEXANDER000046]                                                                         |                                                                                  |
| 22                      | Photograph of Mr. Orton's upper arm and upper back tribal tattoos [ALEXANDER000047]                                                 |                                                                                  |
| 23                      | Photograph of Mr. Orton's Rose arm tattoos [ALEXANDER000048, Alexander Depo Exh 13]                                                 |                                                                                  |
| 24                      | George Lopez show, interview of Mr. Orton [ALEXANDER000050]                                                                         |                                                                                  |
| 25                      | Article: The 20 Coolest Tattoos in WWE History [Zagal Depo Exh 3]                                                                   | Hearsay, Rule 703<br>Inadmissible Expert<br>Bases                                |
| 26                      | WWE 2K Franchise Sales Since Apr'2015 [TAKE-TWO_0000982, Snyder Depo Exh 9]                                                         | Rule 1002 Not Original<br>Document, Rule 106<br>Incomplete Document,<br>Rule 403 |
| 27                      | WWE 2K Franchise Sales Since Apr'2015 [TAKE-TWO_0000983, Snyder Depo Exh 10]                                                        | Rule 1002 Not Original<br>Document, Rule 106<br>Incomplete Document,<br>Rule 403 |
| 28                      | WWE 2K Franchise Sales Since Apr'2015 [TAKE-TWO_0001332, Snyder Depo Exh 11]                                                        | Rule 1002 Not Original<br>Document, Rule 106<br>Incomplete Document,<br>Rule 403 |
| 29                      | License between Take-Two Interactive Software, Inc. and World Wrestling Entertainment [TAKE-TWO_0000498-542, Little Depo Exh 2]     |                                                                                  |

| Plaintiff's Exhibit No. | Description                                                                                                                                                      | Defendants' Objections                           |
|-------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------|
| 30                      | Amendment 1 to License between Take-Two Interactive Software, Inc. and World Wrestling Entertainment [TAKE-TWO_0000543-559, Little Depo Exh 3]                   |                                                  |
| 31                      | Master Development Agreement between Yuke's Co., Ltd. and World Wrestling Entertainment [TAKE-TWO_0000560-609, Little Depo Exh 4]                                |                                                  |
| 32                      | Images of Mr. Orton [TAKE-TWO_0000798-822, Little Depo Exh 5]                                                                                                    |                                                  |
| 33                      | Images of Mr. Orton [TAKE-TWO_0000909-929, Little Depo Exh 6]                                                                                                    |                                                  |
| 34                      | Screenshot of WWE 2K16 video of Mr. Orton's tattoos [TAKE-TWO_0000481, Little Depo Exh 7]                                                                        |                                                  |
| 35                      | IndianVideoGamer.com Interview: WWE 2K18 Executive Producer Mark Little [Little Depo Exh 8]                                                                      | Hearsay                                          |
| 36                      | United States Securities and Exchange Commission – Form 10-K for Take-Two Interactive Software, Inc. for the fiscal year ended March 31, 2018 [Clark Depo Exh 4] | Relevance, Rule 403, Pending MIL                 |
| 37                      | Opening Expert Report of Jose Zagal dated November 15, 2018                                                                                                      | Hearsay, Inadmissible Expert Report, Pending MIL |
| 38                      | Exhibit A to Opening Expert Report of Jose Zagal                                                                                                                 | Hearsay                                          |
| 39                      | Supplemental Expert Report of Jose Zagal dated February 4, 2019                                                                                                  | Hearsay, Inadmissible Expert Report              |
| 40                      | Reserved                                                                                                                                                         |                                                  |
| 41                      | Reserved                                                                                                                                                         |                                                  |
| 42                      | Physical copy of WWE 2K16, XBOX ONE format [M. Little's Declaration, Doc 142-1]                                                                                  | Pending MIL                                      |
| 43                      | Packaging and insert of WWE 2K16 XBOX ONE format [M. Little's Declaration, Doc 142-1]                                                                            |                                                  |
| 44                      | Physical copy of WWE 2K17, XBOX ONE format [M. Little's Declaration, Doc 142-1]                                                                                  |                                                  |
| 45                      | Packaging and insert of WWE 2K17 XBOX One format [M. Little's Declaration, Doc 142-1]                                                                            |                                                  |
| 46                      | Physical copy of WWE 2K18, XBOX ONE format [M. Little's Declaration, Doc 142-1]                                                                                  |                                                  |

| <b>Plaintiff's Exhibit No.</b> | <b>Description</b>                                                                    | <b>Defendants' Objections</b>             |
|--------------------------------|---------------------------------------------------------------------------------------|-------------------------------------------|
| <b>47</b>                      | Packaging and insert of WWE 2K18 XBOX One format [M. Little's Declaration, Doc 142-1] |                                           |
| <b>48</b>                      | Physical copy of WWE 2K16, Sony PlayStation 4 format [TAKE-TWO_0000001]               |                                           |
| <b>49</b>                      | Packaging and Insert of WWE 2K16 Sony PlayStation 4 format [TAKE-TWO_0000001]         |                                           |
| <b>50</b>                      | Physical copy of WWE 2K17, Sony PlayStation 4 format [TAKE-TWO_0000002]               |                                           |
| <b>51</b>                      | Packaging and Insert of WWE 2K17 Sony PlayStation 4 format [TAKE-TWO_0000002]         |                                           |
| <b>52</b>                      | Physical copy of WWE 2K18, Sony PlayStation 4 format [TAKE-TWO_0000003]               |                                           |
| <b>53</b>                      | Packaging and Insert of WWE 2K18 Sony PlayStation 4 format [TAKE-TWO_0000003]         |                                           |
| <b>54</b>                      | WWE Source Product Submission #3540 [Kiang Depo Exh 4; WWE_Alexander0000109]          | Relevance                                 |
| <b>55</b>                      | WWE Source Product Submission #17984 [Kiang Depo Exh 5; WWE_Alexander0000207]         | Relevance                                 |
| <b>56</b>                      | WWE Source Product Submission #4073 [Kiang Depo Exh 6; WWE_Alexander0000112]          | Relevance                                 |
| <b>57</b>                      | Bryce Yang's 8-6-14 Email Chain [Kiang depo Exh 7; WWE_Alexander000094]               | Hearsay, Relevance, Rule 403, Pending MIL |
| <b>58</b>                      | Screenshot of WWE 2K15 video of Mr. Orton's tattoos [WWE_Alexander_0000098]           | Hearsay, Relevance, Rule 403, Pending MIL |
| <b>59</b>                      | Screenshot of WWE 2K17 video of Mr. Orton's tattoos [WWE_Alexander_0000166]           |                                           |
| <b>60</b>                      | Video of Mr. Orton's videogame character [TAKE-TWO_0000823.M4V]                       |                                           |
| <b>61</b>                      | Video of Mr. Orton from WWE 2K Game [WWE_Alexander0000172.m4v]                        |                                           |
| <b>62</b>                      | Video of Mr. Orton from WWE 2K Game [WWE_Alexander0000180.m4v]                        |                                           |
| <b>63</b>                      | Trailer for WWE 2K17 containing Mr. Orton [WWE_Alexander0000200.mp4]                  |                                           |
| <b>64</b>                      | Trailer for WWE 2K16 containing Mr. Orton [TAKE-TWO_0000481.mp4]                      |                                           |

| Plaintiff's Exhibit No. | Description                                                                                                                                                                         | Defendants' Objections                                                               |
|-------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------|
| 65                      | Capture from the videogame WWE 2K16 depicting the infringing Rose tattoo on Randy Orton's in game character model [M. Little's Declaration, Doc 142-1; TAKE-TWO_0000001]            | Rule 1002 Not Original Document, Rule 106 Incomplete Document, Rule 403, Pending MIL |
| 66                      | Capture from the videogame WWE 2K16 depicting the infringing dove tattoo on Randy Orton's in game character model [M. Little's Declaration, Doc 142-1; TAKE-TWO_0000001]            | Rule 1002 Not Original Document, Rule 106 Incomplete Document, Rule 403, Pending MIL |
| 67                      | Capture from the videogame WWE 2K16 depicting the infringing skulls tattoo on Randy Orton's in game character model [M. Little's Declaration, Doc 142-1; TAKE-TWO_0000001]          | Rule 1002 Not Original Document, Rule 106 Incomplete Document, Rule 403, Pending MIL |
| 68                      | Capture from the videogame WWE 2K16 depicting the infringing tribal tattoo on Randy Orton's in game character model [M. Little's Declaration, Doc 142-1; TAKE-TWO_0000001]          | Rule 1002 Not Original Document, Rule 106 Incomplete Document, Rule 403, Pending MIL |
| 69                      | Capture from the videogame WWE 2K16 depicting the infringing tribal addition tattoo on Randy Orton's in game character model [M. Little's Declaration, Doc 142-1; TAKE-TWO_0000001] | Rule 1002 Not Original Document, Rule 106 Incomplete Document, Rule 403, Pending MIL |
| 70                      | Capture from the videogame WWE 2K17 depicting the infringing Rose tattoo on Randy Orton's in game character model [M. Little's Declaration, Doc 142-1; TAKE-TWO_0000002]            | Rule 1002 Not Original Document, Rule 106 Incomplete Document, Rule 403              |
| 71                      | Capture from the videogame WWE 2K17 depicting the infringing dove tattoo on Randy Orton's in game character model [M. Little's Declaration, Doc 142-1; TAKE-TWO_0000002]            | Rule 1002 Not Original Document, Rule 106 Incomplete Document, Rule 403              |
| 72                      | Capture from the videogame WWE 2K17 depicting the infringing skulls tattoo on Randy Orton's in game character model [M. Little's Declaration, Doc 142-1; TAKE-TWO_0000002]          | Rule 1002 Not Original Document, Rule 106 Incomplete Document, Rule 403              |
| 73                      | Capture from the videogame WWE 2K17 depicting the infringing tribal tattoo on Randy Orton's in game character model [M. Little's Declaration, Doc 142-1; TAKE-TWO_0000002]          | Rule 1002 Not Original Document, Rule 106 Incomplete Document, Rule 403              |
| 74                      | Capture from the videogame WWE 2K17 depicting the infringing tribal addition tattoo on Randy Orton's in game character model [M. Little's Declaration, Doc 142-1; TAKE-TWO_0000002] | Rule 1002 Not Original Document, Rule 106 Incomplete Document, Rule 403              |

| Plaintiff's Exhibit No. | Description                                                                                                                                                                         | Defendants' Objections                                                  |
|-------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------|
| 75                      | Capture from the videogame WWE 2K18 depicting the infringing Rose tattoo on Randy Orton's in game character model [M. Little's Declaration, Doc 142-1; TAKE-TWO_0000003]            | Rule 1002 Not Original Document, Rule 106 Incomplete Document, Rule 403 |
| 76                      | Capture from the videogame WWE 2K18 depicting the infringing dove tattoo on Randy Orton's in game character model [M. Little's Declaration, Doc 142-1; TAKE-TWO_0000003]            | Rule 1002 Not Original Document, Rule 106 Incomplete Document, Rule 403 |
| 77                      | Capture from the videogame WWE 2K18 depicting the infringing skulls tattoo on Randy Orton's in game character model [M. Little's Declaration, Doc 142-1; TAKE-TWO_0000003]          | Rule 1002 Not Original Document, Rule 106 Incomplete Document, Rule 403 |
| 78                      | Capture from the videogame WWE 2K18 depicting the infringing tribal tattoo on Randy Orton's in game character model [M. Little's Declaration, Doc 142-1; TAKE-TWO_0000003]          | Rule 1002 Not Original Document, Rule 106 Incomplete Document, Rule 403 |
| 79                      | Capture from the videogame WWE 2K18 depicting the infringing tribal addition tattoo on Randy Orton's in game character model [M. Little's Declaration, Doc 142-1; TAKE-TWO_0000003] | Rule 1002 Not Original Document, Rule 106 Incomplete Document, Rule 403 |
| 80                      | Photographs of the rose tattoo on Randy Orton [ALEXANDER000018-19]                                                                                                                  |                                                                         |
| 81                      | Photographs of the dove tattoo on Randy Orton [ALEXANDER000012-14]                                                                                                                  |                                                                         |
| 82                      | Photographs of the skulls tattoo on Randy Orton [ALEXANDER000023-24]                                                                                                                |                                                                         |
| 83                      | Photographs of the tribal tattoo on Randy Orton [ALEXANDER000028]                                                                                                                   |                                                                         |
| 84                      | Photographs of the tribal addition tattoo on Randy Orton [ALEXANDER000004]                                                                                                          |                                                                         |
| 85                      | World Wrestling Entertainment, Inc.'s Objections and Responses to Plaintiff's First Set of Interrogatories dated August 17, 2018                                                    | Relevance, Rule 403                                                     |
| 86                      | World Wrestling Entertainment, Inc.'s Objections and Responses to Plaintiff's First Set of Requests for Admission dated August 17, 2018                                             | Relevance, Rule 403, Pending MIL                                        |
| 87                      | Defendant World Wrestling Entertainment, Inc.'s Objections to Plaintiff's Second Set of Requests for Admission dated October 15, 2018                                               | Relevance, Rule 403                                                     |

| <b>Plaintiff's Exhibit No.</b> | <b>Description</b>                                                                                                                                                     | <b>Defendants' Objections</b>    |
|--------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------|
| <b>88</b>                      | Defendant World Wrestling Entertainment, Inc.'s Objections to Plaintiff's First Set of Requests for Production dated October 15, 2018                                  | Relevance, Rule 403              |
| <b>89</b>                      | Defendant World Wrestling Entertainment, Inc.'s Objections to Plaintiff's Second Set of Interrogatories dated October 15, 2018                                         | Relevance, Rule 403, Pending MIL |
| <b>90</b>                      | Defendant World Wrestling Entertainment, Inc.'s Objections To Plaintiff's Second Set of Requests for Production dated November 19, 2018                                | Relevance, Rule 403              |
| <b>91</b>                      | Defendant World Wrestling Entertainment, Inc.'s Supplemental Objections and Responses to Plaintiff's First Set of Requests for Production dated May 15, 2020           | Relevance, Rule 403              |
| <b>92</b>                      | Defendant World Wrestling Entertainment, Inc.'s Supplemental Objections and Responses to Plaintiff's Second Set of Interrogatories dated May 15, 2020                  | Relevance, Rule 403, Pending MIL |
| <b>93</b>                      | Defendant World Wrestling Entertainment, Inc.'s Supplemental Objections and Responses to Plaintiff's Second Set of Requests for Admission dated May 15, 2020           | Relevance, Rule 403, Pending MIL |
| <b>94</b>                      | Defendant Take-Two Interactive Software, Inc.'s Objections and Responses to Plaintiff Catherine Alexander's First Set of Requests for Admission dated October 15, 2018 | Relevance, Rule 403              |
| <b>95</b>                      | Defendant 2K Games, Inc.'s Objections and Responses to Plaintiff Catherine Alexander's First Set of Requests for Admission dated October 15, 2018                      | Relevance, Rule 403              |
| <b>96</b>                      | Defendant 2K Sports, Inc.'s Objections and Responses to Plaintiff Catherine Alexander's First Set of Requests for Admission dated October 15, 2018                     | Relevance, Rule 403              |
| <b>97</b>                      | Defendant Visual Concepts Entertainment's Objections and Responses to Plaintiff Catherine Alexander's First Set of Requests for Admission dated October 15, 2018       | Relevance, Rule 403              |

| Plaintiff's Exhibit No. | Description                                                                                                                                                                                                                                    | Defendants' Objections           |
|-------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------|
| 98                      | Defendants Take-Two Interactive Software, Inc., 2K Games, Inc., 2K Sports, Inc., and Visual Concepts Entertainment's Objections and Responses to Plaintiff Catherine Alexander's First Set of Requests for Production dated October 15, 2018   | Relevance, Rule 403              |
| 99                      | Defendants Take-Two Interactive Software, Inc., 2K Games, Inc., 2K Sports, Inc., and Visual Concepts Entertainment's Objections and Responses to Plaintiff Catherine Alexander's First Set of Interrogatories dated October 15, 2018           | Relevance, Rule 403, Pending MIL |
| 100                     | Defendants Take-Two Interactive Software, Inc., 2K Games, Inc., 2K Sports, Inc., and Visual Concepts Entertainment's Objections and Responses to Plaintiff Catherine Alexander's Second Set of Requests for Production dated November 19, 2018 | Relevance, Rule 403              |
| 101                     | Defendants Take-Two Interactive Software, Inc., 2K Games, Inc., 2K Sports, Inc., and Visual Concepts Entertainment's Objections and Responses to Plaintiff Catherine Alexander's Third Set of Requests for Production dated October 11, 2019   | Relevance, Rule 403              |
| 102                     | Defendants Take-Two Interactive Software, Inc., 2K Games, Inc., 2K Sports, Inc., and Visual Concepts Entertainment's Objections and Responses to Plaintiff Catherine Alexander's Second Set of Requests for Admissions dated October 11, 2019  | Relevance, Rule 403              |
| 103                     | Cover art for WWE 2K12 depicting Randy Orton                                                                                                                                                                                                   | Relevance, Rule 403, Pending MIL |
| 104                     | WWE 2K16 video [TAKE-TWO_0000177.mp4]                                                                                                                                                                                                          |                                  |
| 105                     | WWE 2K16 video [TAKE-TWO_0000178.mp4]                                                                                                                                                                                                          |                                  |
| 106                     | WWE 2K17 video [TAKE-TWO_0000179.mp4]                                                                                                                                                                                                          |                                  |
| 107                     | WWE 2K17 video [TAKE-TWO_0000180.mp4]                                                                                                                                                                                                          |                                  |
| 108                     | WWE 2K18 video [TAKE-TWO_0000181.mp4]                                                                                                                                                                                                          |                                  |
| 109                     | WWE 2K18 video [TAKE-TWO_0000182.mp4]                                                                                                                                                                                                          |                                  |
| 110                     | WWE 2K17 video [TAKE-TWO_0000471.mp4]                                                                                                                                                                                                          |                                  |
| 111                     | WWE 2K18 video [TAKE-TWO_0000472.mp4]                                                                                                                                                                                                          |                                  |
| 112                     | WWE 2K18 video [TAKE-TWO_0000473.mp4]                                                                                                                                                                                                          |                                  |
| 113                     | WWE 2K16 video [TAKE-TWO_0000474.mp4]                                                                                                                                                                                                          |                                  |
| 114                     | WWE 2K18 video [TAKE-TWO_0000475.mp4]                                                                                                                                                                                                          |                                  |

| Plaintiff's Exhibit No. | Description                                                                 | Defendants' Objections |
|-------------------------|-----------------------------------------------------------------------------|------------------------|
| 115                     | WWE 2K17 video [TAKE-TWO_0000476.mp4]                                       |                        |
| 116                     | WWE 2K17 video [TAKE-TWO_0000477.mp4]                                       |                        |
| 117                     | WWE 2K16 video [TAKE-TWO_0000478.mp4]                                       |                        |
| 118                     | WWE 2K16 video [TAKE-TWO_0000479.mp4]                                       |                        |
| 119                     | WWE 2K17 video [TAKE-TWO_0000480.mp4]                                       |                        |
| 120                     | WWE 2K17 video [TAKE-TWO_0000482.mp4]                                       |                        |
| 121                     | WWE 2K16 video [TAKE-TWO_0000483.mp4]                                       |                        |
| 122                     | WWE 2K17 video [TAKE-TWO_0000484.mp4]                                       |                        |
| 123                     | WWE 2K18 video [TAKE-TWO_0000485.mp4]                                       |                        |
| 124                     | WWE 2K17 video [TAKE-TWO_0000486.mp4]                                       |                        |
| 125                     | WWE 2K17 video [TAKE-TWO_0000487.mp4]                                       |                        |
| 126                     | WWE 2K17 video [TAKE-TWO_0000488.mp4]                                       |                        |
| 127                     | WWE 2K17 video [TAKE-TWO_0000489.mp4]                                       |                        |
| 128                     | WWE 2K16 video [TAKE-TWO_0000490.mp4]                                       |                        |
| 129                     | WWE 2K18 video [TAKE-TWO_0000491.mp4]                                       |                        |
| 130                     | WWE 2K17 video [TAKE-TWO_0000492.mp4]                                       |                        |
| 131                     | WWE 2K18 video [TAKE-TWO_0000493.mp4]                                       |                        |
| 132                     | WWE 2K18 video [TAKE-TWO_0000494.mp4]                                       |                        |
| 133                     | WWE 2K18 video [TAKE-TWO_0000495.mp4]                                       |                        |
| 134                     | WWE 2K18 video [TAKE-TWO_0000496.mp4]                                       |                        |
| 135                     | 360 video of Randy Orton character [TAKE-TWO_0000930.mp4]                   |                        |
| 136                     | 360 video of Randy Orton character [WWE_Alexander0000111.mp4]               |                        |
| 137                     | 360 video of Randy Orton character [WWE_Alexander0000131.mp4]               |                        |
| 138                     | 360 video of Randy Orton character [WWE_Alexander0000134.mp4]               |                        |
| 139                     | WWE 2K16 walk out video of Randy Orton character [WWE_Alexander0000139.mp4] |                        |
| 140                     | WWE 2K16 video [WWE_Alexander0000147.mp4]                                   |                        |
| 141                     | WWE 2K16 video [WWE_Alexander0000150.mp4]                                   |                        |
| 142                     | 360 video of Randy Orton character [WWE_Alexander0000154.mp4]               |                        |

| <b>Plaintiff's Exhibit No.</b> | <b>Description</b>                                                                                                                                                                                                          | <b>Defendants' Objections</b>    |
|--------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------|
| <b>143</b>                     | 360 video of Randy Orton character [WWE_Alexander0000161.mp4]                                                                                                                                                               |                                  |
| <b>144</b>                     | 360 video of Randy Orton character [WWE_Alexander0000205.mp4]                                                                                                                                                               |                                  |
| <b>145</b>                     | 360 video of Randy Orton character [WWE_Alexander0000206.mp4]                                                                                                                                                               |                                  |
| <b>146</b>                     | Reserved                                                                                                                                                                                                                    |                                  |
| <b>147</b>                     | Reserved                                                                                                                                                                                                                    |                                  |
| <b>148</b>                     | WWE's Supplemental Responses to Plaintiff's Interrogatory Nos. 2, 10 and 11 once produced by WWE                                                                                                                            | Relevance, Rule 403, Pending MIL |
| <b>149</b>                     | Reserved                                                                                                                                                                                                                    |                                  |
| <b>150</b>                     | Video compilation of selected game play sessions from WWE 2K16. Plaintiff intends to introduce all or part of this video compilation and/or screenshots therefrom. [M. Little's Declaration, Doc 142-24, WWE2K16 Xbox Game] | Pending MIL                      |
| <b>151</b>                     | Video compilation of selected game play sessions from WWE 2K17. Plaintiff intends to introduce all or part of this video compilation and/or screenshots therefrom. [M. Little's Declaration, Doc 142-25, WWE2K17 Xbox Game] |                                  |
| <b>152</b>                     | Video compilation of selected game play sessions from WWE 2K18. Plaintiff intends to introduce all or part of this video compilation and/or screenshots therefrom. [M. Little's Declaration, Doc 142-26, WWE2K18 Xbox Game] |                                  |
| <b>153</b>                     | Video compilation of selected game play sessions from WWE 2K16 (selections from Exhibit 150)                                                                                                                                | Pending MIL                      |
| <b>154</b>                     | Video compilation of selected game play sessions from WWE 2K17 (selections from Exhibit 151)                                                                                                                                |                                  |
| <b>155</b>                     | Video compilation of selected game play sessions from WWE 2K18 (selections from Exhibit 152)                                                                                                                                |                                  |

Defendants reserve the right to use discovery answers, pleadings, any other documents exchanged in discovery, and any and all exhibits designated by Plaintiff if the need arises.

Defendants reserve the right to use any materials brought to Court by any witness.

Defendants further reserve the right to utilize demonstrative exhibits, including without limitation illustrations, summaries, charts, models, computer animations, PowerPoint presentations, videos, and enlargements of portions of exhibits.

Defendants preserve all objections to any and all exhibits identified and/or offered by Plaintiff. Defendants specifically preserve the right to object on the basis of any later-filed or granted motion *in limine*, any stipulations made by the parties (*see* Dkt. No. 211), or any further order of the Court. Defendants specifically preserve the right to object to the introduction of any exhibit for lack of personal knowledge by the sponsoring witness and/or failure to lay appropriate foundation for the exhibit to be introduced. Defendants are unaware at this time of any additional exhibits that they may offer, but reserve the right to present rebuttal or impeachment evidence as necessary.

Dated: September 9, 2022

Respectfully submitted,

*/s/ Dale M. Cendali*

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*/s/ Curtis Krasik*

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**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS  
EAST ST. LOUIS DIVISION**

CATHERINE ALEXANDER, )  
Plaintiff, )  
-vs- )  
TAKE-TWO INTERACTIVE SOFTWARE, INC., )  
2K GAMES, INC.; 2K SPORTS, INC.; WORLD )  
WRESTLING ENTERTAINMENT, INC.; )  
VISUAL CONCEPTS ENTERTAINMENT; )  
YUKE'S CO., LTD.; AND YUKE'S LA, INC., )  
Defendants. )  
Case No. 3:18-cv-966-SMY

**CERTIFICATE OF SERVICE**

I hereby certify that on September 9, 2022, I electronically filed the foregoing DEFENDANTS' OBJECTIONS TO PLAINTIFF'S SECOND AMENDED RULE 26(a)(3) PRETRIAL DISCLOSURES with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

|                     |                                   |
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